

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES TOMKO,)	
)	
Plaintiff,)	4:11CV3144
)	
v.)	
)	
AMERICAN TIRE DISTRIBUTORS,)	MEMORANDUM AND ORDER
INC.,)	
)	
Defendant.)	
_____)	

Plaintiff's former counsel was granted leave to withdraw on April 2, 2012. Filing No. [21](#). The order granting counsel's leave to withdraw stated:

On or before April 23, 2012, the plaintiff shall either: (a) obtain the services of substitute counsel and have that attorney file an appearance on his behalf; or (b) file a statement notifying the court of his intent to litigate this case without counsel. Failure to comply with this order may result in dismissal for want of prosecution.

Filing No. [21](#). The clerk's office mailed the order to the plaintiff at his last known address. The mailing was not returned.

The plaintiff did not timely comply with the court's order. On May 3, 2012, a show cause order (Filing No. [22](#).) was mailed to the plaintiff by the clerk's office. The show cause order stated:

Plaintiff is given until May 14, 2012 to show cause why plaintiff's claims should not be dismissed for want of prosecution, in the absence of which plaintiff's claims against the defendant may be dismissed and a judgment of dismissal may be entered without further notice.

Filing No. [22](#). The mailing was not returned. Plaintiff did not respond to the show cause order.

A telephonic status conference before the undersigned magistrate judge was scheduled for today. The plaintiff was ordered to place the call. Neither the plaintiff, nor anyone on plaintiff's behalf, contacted the court.

Accordingly,

IT IS RECOMMENDED to the Honorable John M. Gerrard, United States District Judge, pursuant to 28 U.S.C. § 636(b), that plaintiff's complaint be dismissed for want of prosecution.

The parties are notified that failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation.

IT IS FURTHER ORDERED: The clerk shall mail a copy of this recommendation to the plaintiff at his last known address.

DATED this 16th day of May, 2012.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge